IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 1017 OF 2007

Municipal Corporation of
Greater Mumbai .... Petitioner

versus

Madhusudan D.Kamblli & anr..... Respondent.

Mr. N.V.Walawalkar Sr. Adv. with A.J.Bhor for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 13TH FEBRUARY, 2007

P.C.;

1. Respondent nos. 1 and 2 are working as Junior Overseers in the employment of the petitioner Municipal Corporation of Greater Mumbai. Respondents 1 and 2 are working in Solid Waste Management Department and were desirous of competing for being appointed in the promotional post of Licence Inspectors. The respondents 1 and 2 were not permitted to compete for the promotional post though their salary is more than the clerk's salary. The criteria in regard to eligibility as is discussed in para 7 of the impugned judgment is drawing not less than the pay scale of clerk as allied posts or cadre. Aggreived thereby, the respondents 1 and 2 moved the Industrial court by filing the complaint, touching

commission of unfair labour practice by the petitioner under item 5 and 9 of Schedule 4 of the Act.

2. In support of the contention about commission of unfair labour practice under item 5, the complainant had contended before the Industrial court that four other similarly situated employees whose names are mentioned in para 9 of the order, were permitted to appear for the promotional examination and on being selected, have been infact appointed to the promotional post of Licence Inspectors and the petitioner's case was thus based on discrimination. The Industrial Court has recorded a cetegorical finding about the respondents 1 and 2 herein, being placed in higher pay scale than that of clerk which goes to satisfy the eligibility criteria for the promotional post and has also recorded a finding that the respondents have been discriminated by not promoting them to the promotional post, when other similarly situated employees were so promoted. Thus on both the counts, the Industrial court has recorded findings in favour of respondents 1 and 2.

3. Perused the order passed by the Industrial Court. No interference is called for. The petition thus, is summarily dismissed.